

MASSACHUSETTS

Public Employee Retirement Administration Commission

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M E M O R A N D U M

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Permanent Injunction in EEOC v. Commonwealth of Massachusetts et al.

DATE: February 7, 2000

Judge Richard J. Stearns of the US District Court has issued a permanent injunction prohibiting the Commonwealth from enforcing age limitations for accidental disability retirement (G.L. c. 32, § 7) for most, but not all public employees.

The injunction prohibits enforcing the provision of § 7(1) that only allows accidental disability applications which are filed “before attaining the maximum age for [the member’s] Group.” Retirement boards may no longer prohibit most members from applying for accidental disability solely because they are over the maximum age. Retirement boards, however, must continue to enforce that provision for firefighters, municipal police officers, elected officials, personal staff of an elected official chosen by that elected official, policy-making appointees or immediate legal advisors of an elected official and state court judges.

The injunction also prohibits enforcing the provision of § 7(1) which states “No such retirement shall be allowed within any period of two years prior to attaining the maximum age on account of any accident or hazard undergone except for an accident or hazard undergone within three years of attaining such maximum age.” Retirement boards may no longer prohibit most members within two years of the maximum age for their group from applying for accidental disability solely because their injury or hazard undergone occurred more than three years before reaching maximum age. This provision, however, must continue to be enforced for elected officials, personal staff of an elected official chosen by that elected official and policy-making appointees or immediate legal advisors of an elected official.

The court has retained jurisdiction in this case to determine questions of remedies. The Attorney General’s Office is currently negotiating over those remedies, but it is likely that retirement boards will be expected to locate individuals who were prevented from retiring for accidental disability as a result of the prohibited provisions and process applications for those individuals retroactively. The Commission will keep boards informed on the remedy phase of this case.

We trust the foregoing is of assistance. If you have further questions or concerns, please contact this office.